

Parr, Dean, King, Sulter, Hall, McCollum, Henderson, Johnston of Harris.

(Floor Report.)

Senate Chamber.
Austin, Texas, Feb. 14, 1917.

Hon. W. P. Hobby, President of the Senate:

Sir: We, your Committee on Educational Affairs, to whom was referred

H. B. No. 470, A bill to be entitled, "An Act to enlarge the territory of the Port Arthur Independent School District so as to include a portion of Common School District No. 11 of Jefferson County, Texas, providing for the assessment and collection of taxes, repealing all laws and parts of laws in conflict herewith, etc., and declaring an emergency,"

Have had same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed.

Bee, chairman; Page, Robbins, Buchanan of Scurry, Smith, Gibson, Harley, Bailey, Floyd, Alderdice, Johnson.

TWENTY-NINTH DAY.

Senate Chamber,
Austin, Texas,

Thursday, February 15, 1917.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor W. P. Hobby.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Dayton.	Page.
Dean.	Parr.
Floyd.	Smith.
Gibson.	Strickland.
Hall.	Sulter.
Henderson.	Westbrook.

Absent.

Bailey.	King.
Decherd.	Robbins.
Harley.	Woodward.
Hudspeth.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with, on motion of Senator Dean.

Brief of S. B. No. 219.

By unanimous consent, and on request of Senator Dayton, the brief prepared by the Attorney General of Senate Bill No. 219 was ordered printed in the Journal as a supplement and 500 copies of the supplement printed.

Petitions and Memorials.

A memorial of S. H. Cowan in behalf of shippers was ordered printed in full, on motion of Senator Caldwell, and the same will be found in the Appendix with other petitions and memorials.

Committee Reports.

See Appendix.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, February 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 487, A bill to be entitled "An Act to create a more efficient road system for Gillespie county, Texas, and making the commissioners of said county ex officio road commissioners in their respective precincts, and prescribing their duties as such, and providing for the compensation of road commissioners, etc. and declaring an emergency."

H. B. No. 478, A bill to be entitled "An Act to amend Section 7 of Chapter 107, page 214, of the General Laws of the Thirty-second Legislature of 1911, and regulating the time for holding the district court in the various counties composing the Fiftieth Judicial District of Texas, so as to give Dickens county one more week, and validating processes, and declaring an emergency."

H. B. No. 512, A bill to be entitled "An Act to create the office of county road supervisor for Mills county, and prescribing the method for his appointment, duties and salary, and declaring an emergency," with engrossed rider.

H. B. No. 300, A bill to be entitled "An Act to increase the authority and duties of the commissioners court of Calhoun County, Texas, and of the county commissioners of said county; to require said county commissioners to devote their entire time and attention to the affairs of said county and to fix the salary of the members of said commissioners court and repealing all laws, general and special, in conflict with the provisions of this act, and declaring an emergency," with engrossed rider.

H. B. No. 259, A bill to be entitled "An Act to create a more efficient road system for McCulloch County, Texas; defining the powers and duties of the commissioners court of said county in adopting such system, and providing for the condemnation of lands for opening, changing, widening, ditching, making embankments or fills or draining water away from the public roads in said county; providing that the commissioners of said county be ex officio road commissioners, defining their powers and duties and providing for their compensation; providing that road hands may be assigned to such roads as may be deemed best by the road commissioners of the precinct of the commissioners court of said county; providing for road overseers to call out hands on twenty-four hours notice, and providing for penalty for failure to call out hands when notified to do so; for the payment of overseers working overtime; for the release of road hands by the payment of money; creating a penal offense for the obstruction of ditches or drainways and diverting surface water or streams into public roads of said county, and providing a penalty; making this law cumulative of the general laws, and declaring an emergency."

H. B. No. 516, A bill to be entitled "An Act to define the duties of county commissioners of San Patricio County, Texas, relating to the appointment and supervision of road overseers in defined road districts, and fixing the compensation of the commissioners of San Patricio County, Texas, when acting as ex officio

road commissioners, and declaring an emergency."

H. B. No. 559, A bill to be entitled "An Act creating the Barnhart Independent School District in Irion County, Texas, etc., and declaring an emergency."

H. B. No. 574, A bill to be entitled "An Act to amend Section 2 of an act creating the Jourdanton Independent School District in Atascosa County, Texas, being Chapter 79 of the Thirty-second Legislature of Texas, increasing the territory of said district; to amend Section 8 of said act, providing for the appointment of an assessor and collector for said district; to amend Section 23 of said act providing for the appointment of a board of equalization, and prescribing its powers and duties; to amend Section 24 of said act regulating the time of payment of taxes, and declaring an emergency."

H. B. No. 563, A bill to be entitled "An Act to diminish the civil and criminal jurisdiction of the county court of Real County; to conform the jurisdiction of the district court thereto, and to repeal all laws in conflict therewith, and declaring an emergency."

S. B. No. 85, A bill to be entitled "An Act to amend Section 16, of Article 30, of Title 5, of the Revised Statutes of Texas of 1911, so as to declare what counties compose the Sixteenth Judicial District of Texas; to fix the time for holding court in the various counties of said district; to make the process issued or served before this act takes effect, including recognizances and bail bonds, returnable to the terms of court as herein fixed; to repeal all laws in conflict herewith, and declaring an emergency, and fixing a time for this act to take effect."

S. B. No. 153, A bill to be entitled "An Act creating the Pleasanton Independent School District, covering the same territory heretofore known as Common School District No. 1, in Atascosa County, Texas, and defining its boundaries; and to provide for the creating of a board of trustees thereof and authorizing the board of trustees to levy, assess and collect special taxes; and conferring upon the board of trustees plenary powers; and providing authority to issue bonds for the purpose of purchasing school sites and erecting, furnishing and equipping school buildings with-

in the same; and to levy a tax therefor; and to pay current expenses for the maintenance and support of said schools; providing for a board of equalization, and further prescribing the duty and authority of said board of equalization; and further prescribing the duty and authority of the board of trustees; declaring valid an issue of bonds heretofore made; declaring valid all maintenance taxes heretofore voted; and repealing all laws in conflict herewith in so far as they conflict with this act, and declaring an emergency."

S. B. No. 165, A bill to be entitled "An Act to amend Chapter 8, Acts of the Regular Session of the Twenty-eighth Legislature, the same being entitled 'An Act to aid the city of Galveston in elevating and raising said city so as to protect it from calamitous overflows by donating and granting to it the State ad valorem taxes and a part of the occupation and poll taxes collected on property and from persons in Galveston County for a period of fifteen years, and to provide a penalty for their misapplication,' by extending the provisions of said act for a period of ten years from September 1, 1918."

H. B. No. 469, A bill to be entitled "An Act to establish Common School District No. 4 in San Patricio County, Texas; extending its boundaries so as to include certain lands heretofore in Common School District No. 1 of said county; providing that such parts of Common School District No. 1 of San Patricio County as may hereafter be included in Common School District No. 4 shall continue to be subject to taxation for the payment of principal and interest of any common school district school house bonds that may have heretofore been issued by Common School District No. 1, and remaining unpaid; conferring upon the board of county trustees the power to subdivide said district, and declaring an emergency."

H. B. No. 509, A bill to be entitled "An Act creating the Blanket Independent School District in Brown and Comanche counties, Texas, etc., and declaring an emergency."

H. B. No. 553, A bill to be entitled "An Act to amend Article 7305 of the Revised Civil Statutes of 1911, relating to the inspection of hides and animals, so as to include among

the counties exempted from the provisions of Articles 7256 to 7304, inclusive, the counties of Coke, Irion, Reagan, Sterling, Tom Green and Upton," with engrossed rider.

H. B. No. 440, A bill to be entitled "An Act to amend Section 1 of Chapter 11 of the Special Laws of Texas, passed by the First Called Session of the Thirty-fourth Legislature, approved June 4, 1915, being 'An Act incorporating and creating the Fulbright Independent School District in Red River County, Texas, for free school purposes only,' etc., and declaring an emergency."

H. B. No. 228, A bill to be entitled "An Act to establish and maintain a State School of Correspondence at Austin, Texas; to provide for all courses of study by correspondence that supply the needs of Texas people; to provide for the appointment of an executive board for same, and prescribe their duties; to provide for the appointment of members of the faculty, prescribe their duties, and provide for the salaries of the members of said faculty."

H. B. No. 539, A bill to be entitled "An Act creating and incorporating Lipscomb Independent School District, in Lipscomb County, Texas, etc., declaring an emergency."

H. B. No. 550, A bill to be entitled "An Act to create a more efficient road system for Caldwell County; providing for the employment of a county road superintendent, etc., and declaring an emergency," with engrossed rider.

H. B. No. 554, A bill to be entitled "An Act to create the Chappell Independent School District in Madison County, Texas, etc., and declaring an emergency," with engrossed rider.

H. B. No. 576, A bill to be entitled "An Act to amend Sections 24 and 25 of an Act of the Legislature of Texas, approved March 24, 1911, and entitled 'An Act creating a more efficient road system for Anderson County, Texas, etc.'"

H. B. No. 596, A bill to be entitled "An Act creating the Maydelle Independent School District in Cherokee County, Texas, etc., and declaring an emergency."

H. B. No. 602, A bill to be entitled "An Act creating the Buna Independent School District known as Common School District No. 13, in Jasper County, Texas, and defining

its boundaries, etc., and declaring an emergency."

S. B. No. 124, A bill to be entitled "An Act to provide an appropriation for the maintenance and support of the Agricultural and Mechanical College of Texas in conformity to the provisions of an Act passed by the Thirty-fourth Legislature 'providing for the issuance of certain State bonds and authorizing the retirement of certain bonds of the State of Texas, etc.,' and declaring an emergency."

S. B. No. 226, A bill to be entitled "An Act to amend Section 19, Chapter 67, of the Regular Session of the Thirty-second Legislature, which was approved March 11, 1911, relating to the term of office of the criminal district attorney of Harris County, and to amend Section 22 of the Act mentioned, as originally passed and as amended by Chapter 14 of the General Laws of the Regular Session of the Thirty-fourth Legislature, relating to the pay of the assistant criminal district attorneys of said county; repealing all laws in conflict herewith and declaring an emergency."

S. B. No. 100 failed of passage and bill herewith returned.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Bills Read and Referred.

The Chair, Lieutenant Governor Hobby, had referred, after their captions had been read, the following House bills:

H. B. No. 487, referred to the Committee, on Roads, Bridges and Ferries.

H. B. No. 478, referred to the Committee on Judicial Districts.

H. B. No. 512, referred to the Committee on Roads, Bridges and Ferries.

H. B. No. 259, referred to the Committee on Roads, Bridges and Ferries.

H. B. No. 300, referred to the Committee on Counties and County Boundaries.

H. B. No. 516, referred to the Committee on Roads, Bridges and Ferries.

H. B. No. 559, referred to the Committee on Educational Affairs.

H. B. No. 574, referred to the Committee on Educational Affairs.

H. B. No. 563, referred to the Committee on Judicial Districts.

H. B. No. 469, referred to the Committee on Educational Affairs.

H. B. No. 509, referred to the Committee on Educational Affairs.

H. B. No. 553, referred to the Committee on Stock and Stock Raising.

H. B. No. 440, referred to the Committee on Educational Affairs.

H. B. No. 228, referred to the Committee on Educational Affairs.

H. B. No. 539, referred to the Committee on Educational Affairs.

H. B. No. 550, referred to the Committee on Roads, Bridges and Ferries.

H. B. No. 554, referred to the Committee on Educational Affairs.

H. B. No. 576, referred to the Committee on Roads, Bridges and Ferries.

H. B. No. 596, referred to the Committee on Educational Affairs.

H. B. No. 602, referred to the Committee on Educational Affairs.

Ex-Senator Faulk.

Senator Faulk having been extended the privileges of the Senate floor on yesterday and invited to make an address, he, at this time was presented to the Senate by the Chair, and made a short address.

Bills and Resolutions.

By Senator McCollum:

S. B. No. 370, A bill to be entitled "An Act to amend Articles 628 and 632 of Chapter 2, Title 18, of the Revised Civil Statutes of the State of Texas (1911 compilation), said Chapter being Chapter 7 of the General Laws of the First Called Session of the Thirty-first Legislature, 1909, entitled 'An Act to authorize any county or political subdivision or other defined district of the county, upon a vote of two-thirds majority of the resident property tax paying voters thereof who are qualified electors of such county or political subdivision or defined district of the county to issue bonds or otherwise lend its credit in any amount not to exceed

one-fourth of the assessed valuation of the real property of such county or political subdivision or defined district thereof,' etc., and to add to said Chapter Articles 637a, 637b, 637c, 637d, 637e and 637f, providing that in any county wherein a road district or road districts have been formed or may hereafter be formed and have issued bonds for the purpose of constructing public roads, the commissioners court of the county shall, upon petition, submit to the qualified voters of the county the propositions as to whether or not bonds shall be issued for the purpose of purchasing or taking over the improved roads already constructed in said district or districts and of further constructing, maintaining and operating macadamized, graveled or paved roads and turnpikes throughout such county, requiring the commissioners court to set apart from such county issue bonds in sufficient amount to retire all outstanding district bonds and prescribing the methods therefor either by exchange with the holder or holders of said district bonds or by depositing county bonds to the credit of such district or districts, providing for levy and collection of taxes for said county bonds and dispensing with taxes for said district bonds, authorizing the necessary adjustment of sinking funds, providing for the issuance and sale of county bonds in excess of the amount needed to retire district bonds and for expenditure of funds thus realized, prohibiting the overlapping of road districts or subdivisions of a county, providing for the proper investment of the sinking funds of road bonds, declaring that the interest arising from any such investment shall become a part of the sinking fund and prohibiting the diversion of said interest and said sinking fund for any other purpose, making the same a criminal offense, and providing suitable punishment therefor, and declaring an emergency."

Read first time and referred to Committee on Roads, Bridges and Ferries.

By Senator Strickland:

S. B. No. 371, A bill to be entitled "An Act making it unlawful for any person to sell, offer for sale, give away or dispense compounds or preparations sold or intended to be used as a specific, remedy, treatment

or cure for any bodily disease or illness containing more than two per centum of common ethyl or alcohol except upon the written prescription of a licensed physician or when such sale, etc., is made by a person having a retail liquor license; providing penalties for violation of this Act; and declaring an emergency."

Read first time and referred to Committee on Public Health.

By Senator Caldwell:

S. B. No. 372, A bill to be entitled "An Act to authorize and require the Railroad Commission of Texas to ascertain and find the cost of transportation and handling of freight traffic within this State upon each of the railroads operating within this State by operating divisions thereof and between such other points upon such lines of railroad as the Commission may deem necessary, and ascertain and find the cost per unit of traffic and service per ton mile, per carload per car mile, or other unit of traffic service over each operating division of each of such railroads and between other points thereon, and to require the keeping of such accounts and statistics by such railroads and report thereof to the Railroad Commission of Texas as it may deem necessary; and that the Commission make its findings of the cost and unit cost of service in the transportation and handling of freight, place same of record and cause same to be printed; and that such finding be prima facie evidence of the facts and conclusions therein stated; and that the Commission require railroads without this State which control railroads within this State and the operation thereof by virtue of stock ownership or otherwise to make to the Railroad Commission of Texas all such reports and data pertaining to the cost of service, earnings, profits or divisions of rates or earnings and the rules and regulations pertaining to traffic as may, in the judgment of the Commission, aid it in carrying out the purposes and provisions of this Act or any of the other duties and powers of the Commission as provided by law; and to provide penalties for failure or refusal to comply with the orders of the Commission under this Act; and declaring an emergency."

Read first time and referred to

Committee on Internal Improvements.

By Senator Hudspeth:

S. B. No. 373, A bill to be entitled "An Act incorporating and creating the Knippa Independent School District of Uvalde County, Texas, for free school purposes only; defining its boundaries and providing for the election of a board of trustees; for the raising of revenue by taxation; issuing of bonds for raising money for building purposes; and for maintaining public free schools therein; vesting the property of the Knippa School District in said Knippa Independent School District and vesting said district and the board of trustees thereof with all the rights, powers, privileges and duties conferred and imposed by general laws upon independent school districts, and the board of trustees thereof, and which apply to a city or town incorporated for free school purposes only, under the general laws; and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senators Caldwell and McNealus:

S. B. No. 374, A bill to be entitled "An Act to amend Chapter 124 of the General Laws of the State of Texas passed by the Thirty-fourth Legislature at its regular session, and entitled 'An Act to amend Articles 7608, 7610 and 7618 of the Revised Civil Statutes of the State of Texas, 1911, relating to taxation, providing for a maximum bond of tax collectors, fixing the time for filing by tax collectors of their report, and repealing all laws and parts of laws in conflict therewith, and declaring an emergency,' providing for a reduction in the amount of the bonds required under provisions of said Articles 7608 and 7610, and further providing that the premiums on such bonds may be paid by the county of which the principal therein is tax collector out of the general revenues of the county, and declaring an emergency."

Read first time and referred to Committee on State Affairs.

By Senators Alderdice, Robbins and Suiter:

S. B. No. 375, A bill to be entitled "An Act to reorganize the Seventh,

Fourteenth and Fortieth Judicial Districts and to create the Eighty-fifth Judicial District of Texas, and providing for the appointment of the district judge for said Eighty-fifth Judicial District, and providing for holding the district courts and the terms thereof in the Seventh, Fourteenth, Fortieth and Eighty-fifth Judicial Districts, and providing that all process, recognizances, bail bonds, appeal bonds, and jurors heretofore selected are valid and returnable to first session after this Act takes effect, and validating all judgments and decrees of the said courts, and providing for the continuation of any district court mentioned to the end of its term, and declaring an emergency."

Read first time and referred to Committee on Judicial Districts.

By Senators Gibson, Buchanan of Scurry and Smith:

S. J. R. No. 16, "A Joint Resolution to amend Section 50, Article 16, of the Constitution of the State of Texas, so as to authorize the mortgaging of the homestead for the purpose of obtaining money under the provisions of the Federal Farm Loan Act."

Read first time and referred to Committee on Constitutional Amendments.

Simple Resolution No. 78.

Whereas, On February 14, 1917, a resolution was offered in the Senate seeking the investigation at the hands of a committee of the Senate of certain grave and serious charges against the Governor of Texas, including his borrowing on dummy notes from the Temple State Bank more money than the State banking law allows; and,

Whereas, The adoption of said resolution was opposed on the floor of the Senate because, if the matters therein set forth were true, they would be ground for impeachment of the Governor, and that under the Constitution impeachment proceedings should originate in the House of Representatives; and,

Whereas, The adoption of said resolution was further opposed on the ground that if impeachment pro-

ceedings were based on said charges the Senate would have to try same, and therefore should not now investigate such charges; and,

Whereas, Such resolution was tabled by the Senate after the presentation of said objections; now therefore, believing said charges to be of such a serious nature as to demand investigation, and accepting the reasons given for opposing the adoption of said resolution by our fellow Senators, be it

Resolved, That said resolution be taken from the table and that the Secretary of the Senate be instructed to convey same to the House of Representatives for their consideration, to the end that the truth may be known, and that if said charges be true, proper proceedings be had.

Lattimore, Smith, McNealus, Alderdice, Buchanan of Scurry, Suiter, Westbrook, Johnson of Hall, Buchanan of Bell.

The resolution was read and, on motion of Senator Hudspeth, the same was laid on the table subject to call.

Simple Resolution No. 79.

Whereas, Hon. W. A. Johnson, an honored member of the Texas State Senate, on February 14, 1917, introduced certain resolutions containing charges against the Governor of Texas; and,

Whereas, On the floor of the Senate the Governor charged Senator Johnson with having introduced a resolution without foundation in fact and asserted that if such charges were true he ought to resign, and if not true Senator Johnson ought to resign; and,

Whereas, It was further charged on the floor of the Senate by other parties that Senator Johnson had introduced a resolution for political purposes and which were not in fact true, and a demand was made that Senator Johnson produce at the bar of the Senate his proof and witnesses; now, therefore, be it

Resolved, That a committee of five Senators be appointed by the Lieutenant Governor, whose duty it shall be to fully investigate the facts charged by Senator Johnson and ascertain whether or not he has

made charges without foundation and that said Senator Johnson be given full and fair opportunity to bring before said committee all proof and witnesses to exonerate himself from the charges made against him, and that said committee be empowered to cause to come before it, by invitation or subpoena, all parties and witnesses and produce any documents, books and papers, and the Sergeant-at-Arms shall be directed and empowered to execute any and all process signed by the chairman of such committee, and that any expense incident to such investigation be paid out of the expense fund of the Senate.

LATTIMORE.

The resolution was read and, on motion of Senator Hudspeth, was laid on the table subject to call.

Simple Resolution No. 80.

By Caldwell, Bee, Johnston of Harris, Harley and King.

Whereas, Brigadier General Jno. A. Hulen, of the Texas National Guard, in charge of the Sixth division of Texas troops, now in active service upon the Texas border, is present in the Senate,

Be it resolved, That he be requested to address the Senate and be accorded the privileges of the floor for today.

The resolution was read and adopted.

General Hulen addressed the Senate briefly.

Bills Signed.

The Chair, Lieutenant Governor Hobby, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills:

S. B. No. 159, A bill to be entitled "An Act to appropriate out of the general revenue not heretofore appropriated the sum of \$25,000, or so much thereof as may be necessary, for the remainder of the fiscal year ending August 31, 1917, and the further sum of \$45,000, or so much thereof as may be necessary, for the fiscal year ending August 31, 1918,

to defray the expenses of the Department of the State Health Officer of the State of Texas in intensive rural health work and rural sanitation leading to the prevention and eradication of malaria, hookworm, typhoid fever, and other contagious diseases in the State of Texas; authorizing the State Health Officer to supplement therefrom an amount equal to an amount appropriated or set aside by any county, or city or town therein, for such purposes; also authorizing the State Health Officer to accept donations from any source to supplement such fund, or funds, and declaring an emergency."

House Concurrent Resolution No. 13.

The Chair laid before the Senate on second reading:

H. C. R. No. 13, Requesting all persons interested in H. B. No. 652, to appear before a joint meeting of the Committee on Educational Affairs of the Senate and the Committee on Education of the House at a meeting to be held in the Hall of Representatives at 7:30 o'clock p. m., February 16, 1917.

On motion of Senator Lattimore, the Senate concurred in the resolution.

House Concurrent Resolution No. 14.

The Chair laid before the Senate on second reading:

H. C. R. No. 14, granting Hon. William N. Bonner, Judge of the Thirtieth Judicial District of Texas, leave of absence from the State during vacations of his court.

On motion of Senator Lattimore, the Senate concurred in the resolution.

Messages from the House.

Hall of the House of Representatives.
Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

S. B. No. 243, A bill to be entitled "An Act to validate all sales of pub-

lic free school lands which were purchased from the State and fully paid for, for which patents were signed by Governor J. S. Hogg on the 22nd and the 23rd days of October, 1894, and on the 30th day of November, 1894, and declaring an emergency."

S. B. No. 299, A bill to be entitled "An Act to create and establish the county of Darlington out of part of El Paso County; prescribing its area and boundaries; appointing commissioners to organize said county, and prescribing their duties; providing for a division of said county into commissioners' and justices' precincts; providing for holding county and precinct elections, for the election of county and precinct officers, and for holding an election for the purpose of locating the county seat of said county; providing for the attachment of said county to judicial, representative, senatorial, congressional and supreme judicial districts, and fixing the terms for holding district court in said county; providing for the assessment and collection of taxes, and for defraying the expenses of organizing said county and surveying and fixing the boundaries, and providing for the payment of the pro rata share of the debt of El Paso County, from which said county is taken, repealing all laws and parts of laws in conflict herewith, and declaring an emergency," with amendments.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Hall of the House of Representatives.
Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House requests the Senate to return H. B. No. 354 for correction.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

House Bill No. 354 Returned to House.

On motion of Senator McNealus, H. B. No. 354 was returned to the House for correction.

House Bill No. 4.

The Chair laid before the Senate on second reading:

H. B. No. 4, A bill to be entitled "An Act defining 'mooching,' as knowingly soliciting any money or other thing of value from any other person who is a candidate for nomination or election in any primary or general election to any public office in this State, as fixed by law, and within six months prior to such primary or election, for any barbecue, picnic, dance, ball or for any treat or treats, or for any public political gathering, making same unlawful; and defining 'boosting,' as knowingly soliciting any money or other thing of value from any other person who is a candidate for nomination or election in any primary or general election, fixed by law, to any public office in this State, within six months prior to such primary or election, under the promise, pretense or indication to vote for such candidate or in any way use his influence for such candidate in such primary or election, declaring same to be unlawful, and deemed to be a misdemeanor, and prescribing punishment therefor; and making certain exceptions; and providing that all peace officers shall strictly enforce this Act, and declaring an emergency."

The bill was read, and Senator Lattimore moved the adoption of the minority (adverse) report.

As a substitute, Senator Dayton moved the adoption of the majority (favorable) committee report.

Both of the foregoing motions were withdrawn, and on motion of Senator Dayton the bill was laid on the table subject to call.

House Bill No. 230.

The Chair laid before the Senate on second reading:

H. B. No. 230, A bill to be entitled "An Act to validate Common County Line School District No. 14, lying in Comanche and Eastland Counties, under the control of Comanche County, and to validate the consolidation of what was heretofore Common School District No. 14 of Comanche County with Common Coun-

ty Line School District No. 67, lying in Comanche and Eastland Counties, and declaring an emergency."

The committee report that the bill be not printed was adopted.

The bill was read second time and passed to its third reading.

On motion of Senator Buchanan of Scurry, the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 230 put on its third reading and final passage by the following vote:

Yeas—27.

Alderdice.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	King.
Buchanan of Scurry.	McCollum.
Caldwell.	McNealus.
Clark.	Page.
Dayton.	Parr.
Dean.	Robbins.
Floyd.	Smith.
Gibson.	Strickland.
Hall.	Sulter.
Harley.	Westbrook.
Henderson.	Woodward.
Hudspeth.	

Present—Not Voting.

Bailey.	Lattimore.
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Absent.

Decherd.	Hopkins.
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The bill was laid before the Senate, read third time and passed finally.

House Bill No. 479.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

H. B. No. 479, A bill to be entitled "An Act enlarging and establishing the Liberty County Independent School District, in Liberty County, Texas, etc., and declaring an emergency."

The committee report that the bill be not printed was adopted.

The bill was read second time and passed to its third reading.

On motion of Senator King, the constitutional rule requiring bills to be read on three several days was

suspended and H. B. No. 479 put on its third reading and final passage by the following vote:

Yeas—28.

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	King.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Dean.	Parr.
Floyd.	Robbins.
Gibson.	Smith.
Hall.	Strickland.
Harley.	Suiter.
Henderson.	Westbrook.
Hopkins.	Woodward.

Absent.

Dayton.	Page.
Decherd.	

The bill was laid before the Senate, read the third time and passed by the following vote:

Yeas—28.

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	King.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Clark.	Page.
Dean.	Parr.
Floyd.	Robbins.
Gibson.	Smith.
Hall.	Strickland.
Harley.	Suiter.
Henderson.	Westbrook.
Hopkins.	Woodward.

Absent.

Dayton.	McCollum.
Decherd.	

Senator King moved to reconsider the vote by which H. B. No. 479 was passed and table the motion to reconsider.

The motion to table prevailed.

Senate Bill No. 216.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

S. B. No. 216, A bill to be entitled

"An Act to reorganize the Seventy-sixth and Seventh Judicial Districts of the State of Texas, so as to declare what counties compose the Seventy-sixth Judicial District and the Seventh Judicial District; to fix the time of holding court in the various counties of said districts; to make the process issued to be served before this Act takes effect, including recognizances and bonds, returnable to the courts as herein fixed, and continuing in office judges and district attorneys in each of said districts; to repeal all laws in conflict herewith, and declaring an emergency."

The committee report that the bill be not printed was adopted.

Senator Henderson offered the following amendments, which were read and adopted, being voted on separately:

(1) Amend the bill by striking out all of Section 2 of the present bill and add in lieu thereof the following:

"Sec. 2. All processes issued or served before this Act goes into effect, including recognizances and bonds, returnable to the district court of any of said counties in each of said judicial districts, shall be considered as returnable to said courts in accordance with the terms as described by this Act, and all such process is hereby legalized and all grand and petit juries drawn and selected under existing laws in any of the counties of either of said judicial districts shall be considered lawfully drawn and selected for the next term of the district court of their respective counties, held in accordance with this Act, and after this Act takes effect all such process is hereby legalized and validated; provided, that if any court in any county of either of said judicial districts shall be in session at the time this Act takes effect such court or courts affected hereby shall continue in session until the term thereof shall expire under the provisions of existing laws, and thereafter the said courts of said county or counties shall conform to the requirements of this Act."

(2) Amend the bill by adding the following as Section 2a: "All laws and parts of laws in conflict herewith are hereby repealed."

(3) Amend the caption of the bill

by striking out the following words in line 1: "and the Seventh Judicial," and by striking out the words in line 3: "and the Seventh Judicial District."

(4) Amend the caption of the bill by striking out the word "districts" in line 4 and adding in lieu thereof the word "district."

The bill was read second time and passed to engrossment.

On motion of Senator Henderson, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 216 put on its third reading and final passage by the following vote:

Yeas—26.

Alderdice.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	King.
Buchanan of Scurry.	Lattimore.
Caldwell.	McNealus.
Clark.	Page.
Dean.	Parr.
Floyd.	Robbins.
Hall.	Smith.
Harley.	Strickland.
Henderson.	Suiter.
Hopkins.	Westbrook.
Hudspeth.	Woodward.

Absent.

Bailey.	Gibson.
Dayton.	McCollum.
Decherd.	

The bill was laid before the Senate, read third time and passed by the following vote:

Yeas—25.

Alderdice.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	King.
Buchanan of Scurry.	McNealus.
Caldwell.	Page.
Clark.	Parr.
Dean.	Robbins.
Floyd.	Smith.
Hall.	Strickland.
Harley.	Suiter.
Henderson.	Westbrook.
Hopkins.	Woodward.
Hudspeth.	

Absent.

Bailey.	Gibson.
Dayton.	Lattimore.
Decherd.	McCollum.

Senator Henderson moved to reconsider the vote by which S. B. No. 216 was passed and table the motion to reconsider.

The motion to table prevailed.

Senate Bill No. 305.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

S. B. No. 305, A bill to be entitled "An Act to amend Article 7235, Chapter 6, Title 124, of the Revised Civil Statutes of Texas, 1911, with reference to the mode of preventing horses and certain other animals from running at large in counties named, so as to exclude and exempt Pecos County, and declaring an emergency."

The committee report that the bill be not printed was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Hudspeth, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 305 put on its third reading and final passage by the following vote:

Yeas—23.

Alderdice.	Hudspeth.
Bee.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Caldwell.	Lattimore.
Clark.	McNealus.
Dean.	Page.
Floyd.	Parr.
Gibson.	Smith.
Hall.	Strickland.
Harley.	Suiter.
Henderson.	Woodward.
Hopkins.	

Absent.

Bailey.	King.
Buchanan of Bell.	McCollum.
Dayton.	Robbins.
Decherd.	Westbrook.

The bill was laid before the Senate, read third time and passed by the following vote:

Yeas—23.

Alderdice.	Caldwell.
Bee.	Clark.
Buchanan of Scurry.	Dean.

Floyd.	Lattimore.
Gibson.	McNealus.
Hall.	Page.
Harley.	Parr.
Henderson.	Smith.
Hopkins.	Strickland.
Hudspeth.	Suiter.
Johnson of Hall.	Woodward.
Johnston of Harris.	

Absent.

Bailey.	King.
Buchanan of Bell.	McCollum.
Dayton.	Robbins.
Decherd.	Westbrook.

Senator Hudspeth moved to reconsider the vote by which S. B. No. 305 was passed and table the motion to reconsider.

The motion to table prevailed.

House Bill No. 13.

(By unanimous consent.)

The Chair laid before the Senate on third reading:

H. B. No. 13, A bill to be entitled "An Act granting to the city of Austin certain land along the river front."

The bill was laid before the Senate, read third time and passed finally.

Adjournment.

At 12:50 o'clock p. m., on motion of Senator Clark, the Senate adjourned until 10 o'clock tomorrow morning.

APPENDIX.

Petitions and Memorials.

Senator Dayton sent up and had read a petition from Howe, Texas, favoring the pure seed bill, by Senator Decherd.

Senator Dayton offered a telegram from Gainesville, Texas, opposing Senate Bill No. 16 and House Bill No. 30.

A numerous signed petition from Howe, Texas, to Senator Dayton favoring the enactment of Senate Bill No. 219, was offered.

A numerous signed petition to

Senator McNealus from Dallas Turn Verien, asking that House Bill No. 56, by Davis, be defeated.

Senator Clark sent up a petition from Yoakum railway employes opposing Car Shed Bill, No. 59.

Opposition to Senate Bill No. 219, known as the "Hudspeth bill," as shown in a petition from Hanley Grove, offered by Senator Gibson.

A Letter.

Bryan, Texas, Feb. 13, 1917.

To the Honorable Senate of Texas:

Your unanimous action in passing Resolution No. 70, by rising vote, on the death of my beloved brother, John E. Astin, and your sincere sympathy extended me thereby has touched me deeply and affected me keenly.

I assure you that words are inadequate to express fully my deep appreciation of this beautiful tribute of yours.

My brother was all your resolution said of him, for his heart was as big as the universe and his love for all mankind boundless. He was a Christian gentleman, a stalwart Democrat, and an honored citizen of his State and county. He was true to every trust, having been faithful unto a few things, was made ruler over many. He fought a good fight. He kept the faith with his God, his family and his friends, his party and his country. He never turned his back upon friend or foe, but always stood four square to the world.

He was my daily companion, comforter, counselor and friend, as well as a very dear brother, and his loss to me is irreparable and my grief inconsolable, and therefore I appreciate in this dark hour your sweet sympathy, as manifested in your resolution, with a heart full of love for each and every one of you, and may God's blessings be with you and yours always is my most fervent prayer.

The widow of my dear brother and my family join me in appreciation of your very great kindness to us in our great sorrow.

Yours faithfully and sincerely,
J. R. ASTIN.

The following is printed here on motion of Senator Caldwell:

Adequate Appropriation for Railroad Commission.

Memorial of S. H. Cowan in shippers' behalf:

To the Texas Legislature.

Exercising the right of petition, I as a citizen memorialize you by this appeal to come to the relief of the people to secure their right to use the railroads as highways of commerce at reasonable rates and to secure to the railroads reasonable compensation for their service under efficient operation, compel such respect on their part of our laws and regulations that they may act as a welcome friend within our body politic, and ascertain the facts as to whether our rates are not sufficiently remunerative.

I don't want you to try the Shreveport case; I want you to know about it and the Fonda Tariff (the Lord deliver us). We will lay them to rest before both the Interstate Commerce Commission and the courts; the right of the State over State rates and regulation of State traffic, Congress will make secure. At last the Constitution will survive this new dispensation of concentrating everything at Washington, and the People will Rule.

First Proposition—Furn on the Light.

If we are not paying the railroads enough to reasonably compensate them for the service of transporting freight and passengers upon the rates which Texas makes, let us remedy that just as quickly as we can find out what they are entitled to. They are not the ones to fix the Texas rates; our Commission is the tribunal to do it under the command of the law that they shall be reasonable to both the railroads and the people.

That cannot be done without knowing with some fair degree of approximation what profit our rates afford them on the whole so far as the railroads are concerned, and what profit the shipper's business yields when viewed from his standpoint and business for which he pays the freight.

If we knew this it would be comparatively easy to determine whether we are treating the railroads right or whether they are treating the shipper and the public wrong or attempting to do it. The railroads and the public are concerned in what the aggregate profit is which its entire business yields; the shipper is concerned in what he pays for the service to him; the Commission stands between the public and the railroad to see that the aggregate earnings afford reasonable compensation and at the same time to protect the shipper from paying more than is reasonable for the service which the railroad must render him. Neither the shipper in the given business, nor the public in the aggregate, is obligated to make up for misadventure, injudicious or speculative railroad building or bad management, or the failure of railroads to have enough tonnage or construction of so many railroads as to so divide the tonnage that extortionate rates are required for profitable operation.

The Legislature owes it to the State, the railroads, the public and the shipper to provide the means of ascertaining for public use the nearest approximate profits in the aggregate of each railroad's operation under the State rates and to the shipper what profit his business yields. Without that, it is little better than a mere guess to say whether the rates we make are fair under all the circumstances. True, we cannot make rates merely upon the profit basis, because there is a public economic interest to be considered, and rates must be made to move the traffic and meet competitive conditions and develop industries and keep open channels of commerce and encourage business, production and development.

Yet the great complaint now is that Texas does not allow its railroads adequate compensation under the rates we make, and that is the question underlying the existing serious situation.

I say serious, because the good name of this State has been trampled in the dust and besmirched to such an extent that it has retarded our development and kept capital out of this State more than any other cause, and the time has come when

these slanders must be proven false.

The matter is serious also because we must do right, and that depends on the facts; hence, let us turn on the light.

Cost of the Units of Service Is Ascertainable on a Given Railroad and on Each Operating Division.

Last week a general freight agent testified before Interstate Commerce Commission examiner at Fort Worth in substance that the railroads do not know and cannot tell what it costs to handle a car of cattle to Fort Worth from San Antonio, or anywhere else. As amazing as that may seem, they all testify that they do not know, and doubtless that is true; but it is not true that the fact is not ascertainable within close approximation. Therein lies the crux of the whole problem of proper railroad rates, and present controversy.

Proof is obtainable of approximate average cost of units of service per ton mile and per car mile, per ton and per car by operating divisions, which can be reasonably applied to specific shipments, with proper allowances for special items, so as to reasonably approximate what it costs to transport a car of cattle from San Antonio to Fort Worth. The want of existing collated statistics now renders this difficult, but by no means impossible or impracticable, and such statistics can readily be kept of current operation as to render it easy of ascertainment.

Space and time forbids going into detail of how this proof can be made or how statistical compilations should be made by railroads and required by the Commission to get reasonable approximations of unit costs and the applications of unit costs and the application thereof to given traffic on particular lines of road and parts of the lines.

What has been done to find cost and profits of transporting cattle in given instances can be done again and can be done on other traffic over given parts of a railroad.

Let us have it kept available as a public record.

I will say, however, that the freight operation statistics which the Santa Fe system keeps for its own use, by divisions of its roads, main and branch lines, of unit costs of each of the operating expense accounts, the aggregate of which for each company and for the system and contained in their annual reports to the Interstate Commerce Commission and for Texas lines, to the Railroad Commission of Texas, dividing between freight and passenger traffic and assigning to each its due proportion, can readily be applied as to that road and required to be kept by others, to get very close to unit costs. Such supplemental statistics as may be essential and compilations can be required.

In the Cattle Raisers' case, after arduous and long-continued systematic work, taking into consideration every factor, the special master in chancery appointed by the United States Court at St. Louis made his finding and reported the same to the court, which was approved and became and is the decree of the court. After allowing all proper items of cost of operation, the profits resulting to the railroads in receiving, transporting and delivering a carload of cattle was found to be as follows:

"The master finds that the rates in dispute on a fair division of the through rates yielded to the Santa Fe Railway (system) in 1907, 1908 and 1909, and now yield to it, earnings per net ton mile, not less than 10.50 mills on an average, and to none of the complainants less than that sum.

"The master sets out in the following table the minimum net ton mile earnings of cattle (in mills), under the rates in dispute, and a comparison between the profits on same and other freight of the Santa Fe system for years stated:

ALL FREIGHT.				Per Cent
Year.	Earnings.	Cost.	Profit.	of Profit to Cost.
1907	10.20	6.26	3.94	62.9
1908	9.87	6.94	2.93	42.2
1909	10.30	6.59	3.61	54.6

CARLOAD FREIGHT.

Year.	Earnings.	Cost.	Profit.	Per Cent of Profit to Cost.
1907	8.81	5.08	3.73	73.4
1908	8.51	5.64	2.87	50.8
1909	5.35

CATTLE.

Year.	Earnings.	Cost.	Profit.	Per Cent of Profit to Cost.
1907	10.50	6.26	4.25	67.
1908	10.50	6.94	3.56	51.3
1909	10.50	6.59	3.91	59.3

"The profits realized by the Santa Fe System on a carload of cattle, under the Commission rates to Kansas City and Chicago, on shipments from points named, is shown in the following table (in dollars). All expenses are deducted except taxes:

From—	—To Kansas City—			—To Chicago—		
	1907.	1908.	1909.	1907.	1908.	1909.
Oklahoma City	39.64	36.95	38.33	45.19	38.92	42.15
Fort Worth	33.57	28.25	31.28	37.97	29.67	33.94
Temple	31.21	25.49	28.43	35.59	26.27	31.07
San Angelo	22.89	15.39	19.25	27.29	16.20	21.91
Amarillo	30.30	25.72	38.08	39.30	31.14	35.34
Pecos	39.69	30.38	35.17	44.09	31.20	37.83

These compilations were made from statistical reports of the actual expenditures for maintenance, train and engine service operations, fuel consumption and other expenditures, terminal expenses, etc., on each operating division and unit costs and apportionment of equipment maintenance, and having obtained it by operating divisions it was worked out for the distances from point of origin to the destinations given. Of course there is necessarily some degree of uncertainty and variations arising from varying circumstances, but when it can be shown sufficiently to form the judgment of a court, that is as near as we can get to cost and profits in ordinary affairs and business operations, and it should not lie in the mouth of anyone to say that we should not apply these methods to get a practical, approximate basis of determining cost and profits, but instead to take a guess at it with the eternal controversy as to whose guess shall be accepted.

It is no criticism to say the State Railroad Commission has not gone into this matter; they have had doled out to them a minimum of appropriations to enable them to barely carry on their routine work short-

handed. Texas owes it to itself to make ample appropriations to enable the Commission to accomplish this extremely necessary end of determining the cost of service, line terminal and otherwise, in practical detail, accessible for application, and after appropriate opportunities for hearing the railroads on exceptions to the Commission's findings, to require the Commission to make the findings as to the unit costs, line and terminal, on each principal line or system of road prima facie evidence. This for the necessary use of the present as well as a basis for the future.

It is easy enough to point out objections and difficulties in the way of the ascertainment of facts for practical and beneficial uses. Those objections get nowhere. What we need is constructive work to overcome such difficulties. This the skilled, hard-working expert can do. It is simply a matter of application. It has been done and can be done. The point about it is for the State to make an appropriation sufficient to enable the Railroad Commission of Texas to take charge of it and have it done.

Now, as to the importance of it. Without going into detail, I may say that we cannot even begin the ascertainment of the cost of performance of the freight service without the separation of the freight and passenger expenses, so as to apportion first in the aggregate to freight the expenses which it incurs, and then reduce it down to total and unit cost by divisions of the road, and for the units of traffic.

Many of the expenses, in fact, 65 to 75 per cent, incurred in passenger and freight service, can be allocated and apportioned exactly, or very nearly so. The balance can be rationally apportioned on some worked-out and defined practical rule. That having been done, the beginning of the work is in sight.

A large amount of expense, of course, is of a constant nature that does not fluctuate with the volume and movement of the traffic. It may be said that to apportion that as between freight and passenger traffic and to make application of and apportion it with respect to the units of the freight traffic movement, would be arbitrary. That is true in a sense, but at least it will be an arbitrary rule founded upon reason, and like the trial of any case in court where the element of uncertainty and the element of judgment must come in, such general rules can be applied to specific instances that will enable us to determine within a reasonable degree of accuracy the cost of the units of service.

The inquiry may be made: Of what importance is it?

The answer is: Of the utmost importance.

To explain: About 36 per cent of the ton miles which represents the service of freight traffic in Texas is intrastate transportation, and 64 per cent is interstate traffic. The earnings from each are separately kept in the present system of accounts. Applying the number of ton miles to the total earnings, the earnings per ton mile on the interstate traffic is about 8 mills—and for the sake of illustration we use these round numbers—and for the intrastate traffic about 12 mills.

Note.—It is very important to note in passing that there are very few commodities shipped to or from

Texas points interstate that earn as little as 8 mills per ton mile. The average is brought down by transcontinental and through export traffic and voluntary interstate rates for which Texas is not responsible.

It is idle to talk about the Texas rates from which these earnings are derived being so low as not to afford an adequate return, without ascertaining how much it costs to perform the service per ton mile, terminal and other costs, making application of the entire operating expense properly apportionable to the service. The State and interstate traffic is all moved by the same train, handled at the same depots, pulled by the same locomotives, run over the same tracks, and it is impossible to distinguish as between the two in those particulars. The average distance of the haul in case of the interstate is greater than it is in the case of the average distance haul in the State traffic, and due and proper allowance can be made for that and the facts can be ascertained approximately as to what it ought to be.

The difference between costs of State and interstate per ton is that on the former there are two terminal services and one in the case of the latter.

Say that on a given railroad it costs 6 mills per ton mile in the case of interstate traffic, there would be a profit of 2 mills; and that it costs 7 mills on the intrastate traffic, there would be a profit of 5 mills per ton mile. Now if it should thus turn out with respect to some given line of railroad, how can it be said that rates made by the State on the 36 per cent of the ton miles are unreasonably low, and that the failure of the railroads to have sufficient in the aggregate of all other business to render them profitable, is due to the State-made rates or to the interstate rates? Increase the cost 1 mill per ton mile above this, and that would leave 1 mill per ton mile profit in case of the interstate traffic, and 4 mills in case of the State traffic; but were it increased so that the cost of the interstate is 8 mills per ton mile for interstate and 9 mills per ton mile for the State, there would be no profit in case of the interstate and 3 mills per ton mile in the case of the State.

It is easy enough, of course, to say, as was said by the Interstate Commerce Commission in the Shreveport case, that there appeared to be something wrong with the Texas roads. If that be true, wherein lies the wrong? Is it on account of the State rates or what the railroads do take or must take on the interstate?

It was shown at the hearing of the cattle rate part of the Shreveport case at the hearing before the examiner of the Interstate Commerce Commission at Fort Worth last week, that the I. & G. N. Ry. Co. receives for its local traffic originating and destined to points on its line, \$2.03 per ton on beef cattle, which would be practically 10 cents per hundred pounds for the average distance haul of 217 miles. The Texas Commission rate for 217 miles is 18¾ cents. So that somewhere or other there was 8¾ cents lost in the transaction, or there was too much service performed, or improper account used in making the compilation.

Taking all of the I. & G. N. traffic, the rates prescribed by the State yield far more than the earnings reported per ton for the average distance haul. Why should not these facts be sifted out and the actualities known instead of leaving the inference to go all over the country that Texas is robbing the railroads?

True, rates are not made on the cost of the service, but that is a material factor and of course when it comes to find out what the profit is in a given transaction or the average profits on a series of shipments between certain points, it is the only factor. It is important therefore in all cases and vitally so in some cases. Take the rates between Shreveport and Fort Worth made by the Interstate Commerce Commission. It did not find unit costs or what the profits would be on any traffic or the average of all traffic. The T. & P. Ry. between Shreveport and Fort Worth has an extreme density of traffic, probably more than a million tons one mile per mile of line. This density greatly reduces unit costs. Over that part of the road the Texas Commission rate may produce a very great profit; if so, the Shreveport rate should be proportionately low as compared to rates between Pecos

and El Paso. The Texas Commission rate may be too high, hence the claim of discrimination that would give the Interstate Commerce Commission jurisdiction would be wholly wanting. If the cost were known, that would settle it.

Many other reasons could be given and arguments made in support of the proposition which is intended to be here presented for your consideration, but these are sufficient to give an accurate illustration of it. It is submitted, therefore, that there should be an appropriation for the use of the Railroad Commission of Texas, and that the Commission should be required and directed to make full investigation for the ascertainment of these facts, and to employ such force as is necessary to that end, and let that appropriation be extended according to the judgment of the Railroad Commission, and hold it responsible for doing so.

This matter has been suggested by me heretofore, and I have heard it stated by some of my railroad friends that of course I might receive something professionally out of it and they trusted that I would. If that is to be considered as an answer to the suggestions herein made, I will tender such services as I might be able to render in connection with this matter to the State of Texas without any charge. So that answer to this proposition, if an appropriation is objected to by the railroads, which I trust will not be, could be nothing else than the desire that these facts be not ascertained, but their continued guesses accepted for the fact.

If, as testified to by their witnesses, they do not know and cannot ascertain what it costs them to handle a car of cattle from San Antonio to Fort Worth, there could be no objection to an appropriation which after due consideration is made to secure this knowledge by the best methods which the Commission can adopt. Cattle is used as an example; unit costs are the prime factors.

So far as a bill is concerned to accomplish this, very little is needed, as the Railroad Commission already has the power, and if the duty is specifically required and an appropriation sufficient made to accom-

plish, they will no doubt gladly serve the State and perform that duty and call to their assistance the best experts which the railroads have, taking first the representative lines and then carrying it out from time to time as they may find it necessary to do. Respectfully,

S. H. COWAN.

Fort Worth, Feb. 12, 1917.

Telegram.

Dallas, Texas, Feb. 15, 1917.

Hon. J. C. McNealus, Senate Chamber, Austin, Texas:

Will be obliged if you will say for me that Governor Ferguson's statements yesterday affecting me as reported in Dallas News are wholly unfounded in fact. I never saw H. C. Poe but once, that I remember. That was in December, 1915, when he was in Washington with Governor Ferguson. I certainly have not seen him since nor communicated with him in any way, directly or indirectly, on any subject, and have had absolutely nothing to do with and no knowledge of any action of his whatever. These statements can be easily verified.

THOS. B. LOVE.

Engrossing Committee Reports.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 113 carefully compared and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 284 carefully compared and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on En-

grossed Bills has had Senate Bill No. 349 carefully compared and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 64 carefully compared and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 336 carefully compared and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Reports.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 221, A bill to be entitled "An Act to provide an adequate method of regulating the practice of civil engineering and surveying in the State; defining civil engineering and surveying; creating a board of engineering examiners and prescribing its powers, duties and compensation; providing for a special fund to be derived from fees; providing for certificates of registration and for examinations and licensing civil engineers and surveyors; defining the qualifications of civil engineers and surveyors; prescribing the mode and manner of holding examinations, and the form of licenses; authorizing issuance of licenses without examination under certain conditions; fixing fees; providing for a record of certificates of registration and licenses; providing for issuance of surveyors' licenses to civil engineers without examination under certain conditions; fixing the life of certificates of registration and licenses and providing for renewals thereof; authorizing the issuance of temporary licenses;

providing for revocation of certificates of registration and licenses; providing for appeals; providing a penalty for the practice or attempted practice of civil engineering or surveying without a license or certificate of registration; requiring certain classes of reports, maps or other official documents to bear certificates of registered or licensed civil engineer or surveyor; providing for exemptions under certain conditions; repealing all laws in conflict herewith, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

HALL, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 357, A bill to be entitled "An Act to amend Chapter 173 of the Regular Session of the Thirty-third Legislature approved April 9, 1913, relating to the prospecting for and the development of the minerals and other substances in the public land, public islands and public waters and river beds and channels owned by the State and in the unsold land belonging to the public school fund, the University fund and the several asylums fund, and in such of said land as has heretofore been sold or may hereafter be sold with the reservation of the minerals and other substances therein to the fund to which the land belongs; providing the royalty and other sums and compensation to be paid to the State and owners of the surface, and appropriating the proceeds to certain funds; providing for ingress and egress; providing one may pay cash for mineral claims and obtain patents; and change former claims to rights under this Act; providing for adoption of rules and regulations by the Commissioner of the General Land Office; repealing the remaining portion of this said Chapter 173, which may not be amended, and all other statutes in conflict with this Act, and declaring an emergency,"

Have had the same under consider-

ation and I am instructed to report the same back to the Senate with the recommendation that it do pass.

HALL, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Roads, Bridges and Ferries, to whom was referred

S. B. No. 62, A bill to be entitled "An Act to amend Articles 627, 628, 634 and 535a, Chapter 2, Title 18, of the Revised Civil Statutes of Texas, relating to the construction of macadamized, graveled or paved roads and turnpikes by providing in addition to the collection of taxes for the interest and sinking fund, a fund for the maintenance of the roads and turnpikes so constructed, and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

CALDWELL, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 356, A bill to be entitled "An Act providing that in event any owner of real estate is dissatisfied with the valuation placed thereon by the board of equalization of any county, municipality, school district or any taxing district, such owner may, if he so desire, offer such property for sale at such price as he may determine is the true market value thereof; that such offer of sale shall be by publication, and providing the manner and length of time of such publication or advertisement; that where more than one tract is contained in such advertisement each tract shall be priced to sell separately; providing that should no sale be made or bona fide offer of purchase be made at the price mentioned in the advertisement within the period advertised the owner may file with the board of equalization his affidavit setting forth the advertisement and whether a sale of such property has been made or he has received a bona fide offer of purchase at the price advertised; pre-

scribing the form of such affidavit; providing that the board may in its discretion hear evidence upon the affidavit, and if not controverted it shall be spread upon the minutes; that where there should be a sale at the price offered in such advertisement, or in event no bona fide offer of purchase, then the price of sale, or the price contained in such advertisement in event of no bona fide offer of purchase shall be accepted by such board and so entered on the minutes and lists before such board as the value of such property; repealing all laws and parts of laws in conflict herewith; making it a felony for any person to make a false affidavit hereunder or make a pretended transfer of real estate for the purpose of obtaining the benefits hereof, and prescribing the penalty, and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 138, A bill to be entitled "An Act to be known as the interchangeable jury law, to regulate the selection, organization and custody of juries in all cases except capital and lunacy cases, in counties where there are now three or more or may hereafter be established three or more district courts, and to repeal all laws in conflict herewith,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 350, A bill to be entitled "An Act to amend Article 3410, Chapter 17, Title 52, of the Revised Civil Statutes of the State of Texas of 1911, relating to raising allowances for the widow and children so as to provide that no property encumbered by certain liens shall be set aside or

appropriated to make up allowances, until the debt or debts secured by such liens are discharged, and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

Committee Room,

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 331, A bill to be entitled "An Act to amend Article 350 of the Revised Civil Statutes of 1911 of the State of Texas, providing for the joint duties of county and district attorneys and to provide for compensation of county attorneys in certain cases,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

BAILEY, Chairman.

(Floor Report.)

Senate Chamber.

Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: We, your Committee on Roads, Bridges and Ferries, to whom was referred

H. B. No. 49, A bill to be entitled "An Act to amend Section 6 of Chapter 41 of the Special Laws of the Regular Session of the Twenty-seventh Legislature, entitled, 'An Act to create a more efficient road system for Coryell County, Texas, and making the county commissioners of said county ex officio road commissioners, and prescribing their duties as such road commissioners; prescribing the duties of the road overseers; providing for exclusive use of road funds on public roads, and for ordering an election; providing for the payment of a tax by road hands in lieu of working the roads; providing a compensation to be allowed for use of tools and teams on roads; providing for condemnation of land for public road purposes; providing for the working of delinquent polltax payers on public roads, and relieving them from such work by the payment of three dollars; providing for the amount of money to be paid to hands

on making this law cumulative of the General Laws of the State, and in case of a conflict, this Act be governed as to Coryell County, and declaring an emergency.' As the same was amended by an Act of the Thirtieth Legislature, known as House Bill No. 339, and as the same was amended by Chapter 62 of the Regular Session of the Thirty-fourth Legislature providing that any citizen of Coryell County liable to road duty who shall pay to the county treasurer the sum of three dollars by the second Tuesday in February of each year shall be exempt from road duty for such year, and providing that any person liable to road duty who fails to pay such tax shall be required to pay the sum of one dollar for every day he fails to appear and work the road, and declaring an emergency."

Have had the same under consideration and beg leave to report the same back to the Senate with the recommendation that it do pass, and that it be not printed.

Caldwell, Chairman; Strickland, Gibson, Clark, Buchanan of Scurry, Smith, Floyd.

Committee Room,
Austin, Texas, Feb. 15, 1917.

Hon. W. P. Hobby, President of the Senate.

Sir: Your Committee on Civil Jurisprudence, to whom was referred S. B. No 42. A bill to be entitled "An Act to provide for the registration of land titles in this State. to prescribe the procedure. the duties of officers in relation thereto. the venue, the form of registration certificates and the recording thereof; for the appointment of examiners and fees to be charged in such proceedings."

Have had the same under consideration. and I am instructed to report the same back to the Senate with the recommendation that it do not pass. but the Committee substitute bill accompanying this report pass in lieu thereof

BAILEY, Chairman.

Committee Substitute.

Amend Senate Bill No. 42 by striking out everything after the enacting clause and insert in lieu thereof the following:

Be it enacted by the Legislature of the State of Texas:

Section 1. All county clerks in this State shall be ex officio registrars of their respective counties, and shall sign all papers and documents which they are required or permitted to sign under the provisions of this Act, as the registrar of the proper county. All deputy county clerks shall be deputy registrars, and the name of the registrar may be signed by any of his deputies.

Sec. 2. Whenever in this Act the term district court shall be used it shall be held to mean the district court of the county in which the suit for the registration of the title of the land involved shall be brought under the provisions of this Act; the term district clerk, as used in this Act, shall be held to mean the clerk of the district court of such county; the term registrar, as used in this Act, shall be held to mean the county clerk of such county. The term registered title, as used in this Act, shall be held to mean a title registered under the provisions of this Act. The term land registered shall be held to mean land the title of which has been registered under the provisions of this Act. The term registration record, as used in this Act, shall be held to mean the record of registered titles for the proper county under the provisions of this Act. The term registration docket, as used in this Act, shall be held to mean the land registration docket for the proper county, as provided for in this Act. The term registration minutes, as used in this Act, shall be held to mean the book or books required by this Act to be kept by the district clerk, in which to record the judgments, orders or decrees of the district court, made as provided in this Act. The term registration certificate, as used in this Act, shall be held to mean the certificate to be issued by the district clerk. The term owner's certificate, as used in this Act, shall be held to mean the copy of the registration certificate or of the certificate required to be issued by the registrar under the provisions of this Act. The term examiner, as used in this Act, shall be held to mean the examiner of the proper county, appointed under the provisions of this Act.

Sec. 3. The registrar shall keep in his office one or more well-bound books, numbering the same consecu-

tively, to be known as the registration record, in which he shall record all certificates of titles and owners' certificates and notations thereon.

Sec. 4. The district clerk shall keep in his office one or more well-bound books, to be known as the registration docket, numbering the same consecutively, in which he shall note the number of any suit filed in his office, numbering the same consecutively as filed, the name or names of the plaintiff and the county of the residence of such plaintiff or plaintiffs, the name of each defendant appearing in the petition; the process issued by him in such suit, when the same was issued and to whom delivered, when and how the same was served, the name of the survey as set forth in the petition, and the name or names of parties filing an answer or motion therein with the date when same was filed. He shall likewise keep in his office a well-bound book or books, numbered consecutively, to be known as the registration minutes, in which he shall record all judgments, orders or decrees of the district court or the judge thereof made in any suit brought under the provisions of this Act.

Sec. 5. The district court or judge thereof shall note on the registration docket such memoranda as he may deem necessary.

Sec. 6. Suits under the provisions of this Act shall be brought in the district court of the county where the land, the title to which is sought to be registered, is situated; provided, where such land lies in two or more counties, such suit may be brought in either of said counties; and provided further, that in counties where there are two or more district courts such suit may be brought in either of said district courts.

Sec. 7. The judge of each district court in this State shall appoint one or more examiners for each county in his district who shall be a licensed lawyer qualified to examine and pass upon abstracts of title. Each such examiner shall give bond in the sum of five thousand dollars (\$5,000.00), payable to the State of Texas, with two or more securities to be approved by the judge making such appointment, conditioned for the faithful performance of his duties as defined in this Act, and shall take the constitutional oath of office; said

bond shall be recorded by the registrar in the registration record of the proper county. If any person be appointed examiner for more than one county, he shall take such oath and execute such bond for each of the counties for which he shall have been appointed.

Sec. 8. The registrar shall keep an index to the registration records by tracts; that is, showing the names of the original surveys, the title to which, or any part thereof, has been registered under this Act, where such land is not a lot in any town or city, the date of such registration and by whom registered. If such land be a lot in any town or city, such index shall show the name of the town, the name of the subdivision or addition, if any, the number of the lot or lots and the corresponding number of the block. The district clerk shall likewise keep such an index to the registration docket and the registration minutes.

Sec. 9. Appeals and writs of error shall be allowed in all judgments rendered by the district court under the provisions of this Act, in like manner as in other judgments rendered by such court.

Sec. 10. Any act required or permitted to be done by any person under this Act may be done by the agent of such person, provided such agency shall be evidenced by written power of attorney, acknowledged as is or may be required for the registration of deeds, and filed with the registrar. Likewise any such act may be done by a legally appointed executor, such executor, administrator or guardian of a minor; provided any such executor, administrator or guardian shall first present to the registrar a certificate from the clerk of the court appointing such executor, administrator or guardian, showing that he is the duly appointed, qualified and acting executor, administrator or guardian, as the case may be; and provided further that this section of this Act shall not be construed as giving any executor, administrator or guardian authority to dispose of or encumber any estate which is not conferred by the probate laws of this State.

Sec. 11. Any person owning any land in this State, whether the same be by legal or equitable title, may file his petition in the district court to have such title registered. Such petition shall be in writing and ver-

filed by the affidavit of the plaintiff, and shall state:

(a) The name and residence of the plaintiff or plaintiffs, and his or their age.

(b) The description of the land sought to be registered, the names of all parties whom the records of the county in which said land is situated, show to have theretofore owned such land or any interest therein, or who hold or have held a mortgage, deed of trust, vendor's lien or judgment lien thereon, or any other legal or equitable interest therein, stating the county of the residence of such parties, if known to the plaintiff, the names of all parties, if any, in the actual possession of such land or any part thereof, at the time of filing such petition, and in what capacity they are occupying or holding such land. Said petition shall also show whether any of the parties named therein are claiming any title or interest in said land adversely to plaintiff so far as is known to him.

(c) Whether the plaintiff is married or single, and if married the name and residence of his wife, or of her husband, as the case may be.

(d) Whether the property described in the petition is the separate property of the plaintiff or the community property of himself and wife, or the separate property of the wife, as the case may be.

(e) Whether the petitioner claims the whole of the estate or an undivided interest therein, and if the latter, what interest and who owns or claims the remaining interest, stating the names and residence of such party or parties, if known to the petitioner.

(f) Whether or not the land described in the petition, or any part thereof, is the homestead of the petitioner, and if only a part thereof, describing the same.

Sec. 12. At the time of presenting the petition to the examiner as herein required, the plaintiff shall present to such examiner a full and complete abstract of title to the land or lands described in such petition.

Sec. 13. Suits brought to register the title to lands belonging to the separate estate of the husband or to the community estate of the husband and wife, shall be brought by the husband alone, but in such case there shall be attached to the petition a written statement signed

by the wife and acknowledged by her in the same form and manner now required by law for the execution by her of the conveyance of homestead rights. Any amendment to said petition which might affect the rights of the wife shall likewise have such statements attached thereto before the same is filed.

Sec. 14. The wife may bring suit to register the title to land belonging to her separate estate without the necessity of being joined therein by her husband, but in such case the husband shall endorse or attach to the petition or any amendment thereof affecting his rights before the same is filed, except as hereinafter provided, that he consents to such suit being brought by the wife and acquiesces in the allegations therein contained, which certificate shall be acknowledged as is required for the registration of deeds.

Sec. 15. If the wife shall refuse to acquiesce in any suit brought by the husband under the provisions of this Act, or if the husband shall refuse to acquiesce in a suit so brought by the wife, such fact shall be stated in the petition, and the wife or husband, as the case may be, shall be made a party defendant in said suit and shall be served with citation as is provided for defendants in suits of trespass to try title.

Sec. 16. There may be included in one suit brought under the provisions of this Act, any number of tracts or parcels of land out of the same original survey, where the same is not a lot in any town or city, and any number of parties owning tracts or parcels of land which are subdivisions of the same original survey may join in such suit, stating in the petition the tracts or parcels separately owned by each of the plaintiffs. Likewise, there may be included in the same suit any number of lots in the same block in a town or city owned by different parties. In such case the petition shall show the individual interest of each plaintiff, and if judgment be rendered for plaintiff or either of them, a certificate of title shall issue to each plaintiff in whose favor such judgment shall be rendered.

Sec. 17. No title acquired by adverse possession shall be registered under the provisions of this Act unless it be made to appear that the plaintiff, together with those under whom he claims, has had the actual

peaceable and adverse possession thereof, using, cultivating and enjoying same under a deed or deeds duly registered, and paying all taxes thereon for a period of ten (10) years next before the beginning of suit to register such title.

Sec. 18. Before a petition shall be filed in any suit under this Act, the same shall be presented to the district court or judge thereof, who shall refer the same to an examiner. Such examiner shall examine said petition, together with the abstract of title furnished him, as herein provided, and if he shall find that all of the provisions of this Act with reference to said petition have been complied with, he shall endorse thereon "Let this petition be filed," and sign the same officially. If the examiner shall find that such petition does not comply with the provisions of this Act, he shall return the same to the party from whom he received it, together with a written statement of his objections thereto. If thereafter such objections shall be cured to the satisfaction of the examiner, he shall order the petition filed as hereinafter provided.

Sec. 19. Upon docketing a suit as herein provided, the district clerk shall issue and deliver to plaintiff or to one of them if there be more than one, or to his attorney of record, a written statement substantially as follows.

Notice of registration of title of land in.....Survey in.....County (giving the name of such survey and county), or in.....town or city (giving the name of such town or city).....(giving the name of plaintiff or plaintiffs) has filed his, her or their petition to register his, her or their title to land in said survey, or to lot or lots in said town or city described as follows: (giving the description contained in petition), (and has named as defendant in said suit the following parties, naming all defendants named in said petition). Said suit will be tried at the term of the district court ofCounty for the.....Judicial District of Texas, said term to begin.....(stating a time not less than forty days after the issuance of said notice). All persons claiming any title or interest in said land, or lot or lots, as the case may be, are required to file their answers to said suit on or before return day

of said term of court, otherwise to be forever prohibited from claiming any title or interest in said lands, lot or lots, as the case may be, or any part thereof.

Said notice shall be delivered to the plaintiff or one of such plaintiffs, or to his or their attorney of record, who shall cause the same to be published in some newspaper published in the county where such suit is pending, if any such there be, and if not, in some newspaper published in an adjoining county, for four consecutive weeks prior to the return day thereof. A copy of such printed notice together with the publisher's affidavit, showing the date of such publication, shall be prima facie proof of the facts set forth in such affidavit.

Sec. 20. If it be alleged in any petition filed under the provisions of this Act that any of the defendants therein are claiming said land, or a part thereof, or are interested therein, or in any lien thereon, adversely to plaintiff, such party shall be personally served with a printed copy of such notice in the manner provided by law for serving citation in other suits in the district courts of this State.

Sec. 21. Any person desiring to contest the claim of the plaintiff as set forth in his petition as herein provided, may do so by filing an answer in such suit at any time before the case is called for trial; provided, said answer shall state the nature of defendant's title or claim, and the same shall be verified by the affidavit of the person filing such answer.

Sec. 22. Upon calling for trial any suit herein provided for, if it shall be made to appear to the court that citation has been served as provided herein, and that no answer has been filed contesting plaintiff's right, he shall have judgment by default against all of the defendants in such suit and against their heirs and assigns and all persons claiming under or through such defendants, or either of them.

Sec. 23. If upon calling for trial any suit herein provided for some of the defendants therein named or some other party shall have filed answer as herein provided, contesting plaintiff's claim, and others of such defendants shall have failed to answer, the plaintiff shall have judgment by default as to those not an-

swering; and the suit shall be tried as to those so answering, as is provided by law for the trial of other contested cases in the district courts of this State; provided, the court may refer all written evidence of title and depositions filed in such suit to the examiner, and his report therein shall be admitted as prima facie evidence of the facts therein stated.

Sec. 24. Any person desiring to contest the claim of plaintiff as established by the judgment of the court in any case herein, may, at any time within two years from the date of final judgment therein, and not thereafter, file in said case a motion to set aside said judgment, stating in said motion that he is the owner of said land or some interest therein or a lien thereon adverse to the title established by said judgment, describing the nature of his title or lien, that he was not personally cited as a defendant in said case, and that he did not know of said judgment having been entered, or that he did not know of his right or claim or interest in said land or lien thereon until within three months next before filing of said motion. Upon the filing of said motion citation shall be issued to the plaintiff or plaintiffs in said suit, and to all persons appearing from said papers filed in said suit or notations on the registration docket to hold adverse interest to the party filing such motion, the same to be served as is provided for the service of citation in other cases in the district courts of this State, and said case shall be tried as is provided for trial of cases under this Act.

Sec. 25. All person shall be required to take notice of the pendency of a suit to register a title under this Act, and anyone acquiring title under the plaintiff or plaintiffs in such suit to the land therein involved, or any part thereof, or so acquiring a lien thereon, or an execution or order of sale against such petition, or a deed to the same under any judicial process, or a lien by virtue of a judgment against such plaintiff, or an attachment or other process levied against such land, during the pendency of such suit, shall be required to file with the district clerk a notice of such title, claim or lien describing the same, and if the same be recorded he shall state the volume and page where so recorded. Said notice shall be verified

by the affidavit of the party filing same. The district clerk shall file such notice with the papers in such suit and make a notation of the same on the registration docket. No title, lien or claim acquired in or against said land during the pendency of such suit, not filed as herein required shall have any validity against the title of such land as shown by the registration certificate that may be issued under the provisions of this Act.

Sec. 26. At any time within ninety days after the expiration of two years after final judgment in favor of the plaintiff or plaintiffs in any suit brought under the provisions of this Act, such plaintiff or his assignee may file in the court where such judgment was rendered a motion to require the clerk of such court to issue to the applicant a certificate of title; provided the court may for good cause shown permit such motion to be filed within a reasonable time after the expiration of said time. Said motion shall show what, if any changes have occurred in the condition of the title to said land and circumstances thereon since the rendition of the final judgment, whether the transfers of such land, if any, have been made by persons married or unmarried, whether the title thereto has been affected by the laws of descent and distribution or by any will or homestead rights, whether the applicant is married or unmarried and if married, the name and postoffice address of the wife, or husband, as the case may be, the postoffice address, if any, of all persons who have acquired an interest in or a lien on said land since the rendition of such final judgment and all other facts necessary to be known to the court, in order to ascertain to whom the certificate of title shall be issued, the character of such certificate and the notations to be entered thereon. Said motion and all amendments thereto shall be sworn to by the party presenting the same.

Sec. 27. Upon the presentation to the proper court or judge thereof in term time or in vacation, the motion provided for in the preceding section of this Act, he shall refer the same to an examiner who shall examine said motion and final judgment and all papers on file with the papers of said case and all motions on the registration docket and registration minutes and said examiner

shall report in writing to the court whether or not the proper allegations have been made in the motion to require certificate of title to issue and whether or not he finds such allegations to be true, in whole or in part, and what additional allegation if any, should be made in such motion. Said report shall be sworn to by such examiner. If any objection to such motion be made by the examiner, the same shall be taken as a special demurrer to said motion and shall be passed upon by the court as is provided by law in other cases of special demurrer, and the party presenting such motion may amend the same in accordance with the rules of the court. The examiner shall also include in his report whether or not in his opinion any person should be cited to show cause why the certificate of title should not be issued as prayed for, and the court may in its discretion require said parties to be cited in such manner as he may direct.

Sec. 28. When the motion to issue certificate of title is in the opinion of the court in conformity with the provisions of this Act only such additional citation, if only one has been served, is directed by the court the court shall direct the examiner to file with the papers in the case such certificate of title as should be issued under the provisions of this Act, and the facts of the case, including all proper notations thereon and if the court is satisfied that the same conforms to the provisions of this Act, he shall order that such certificate be granted.

Sec. 29. The form of the certificate to be prepared by the examiner as provided in Section 27 of this Act shall be substantially as follows; the caption thereof shall be: "First Certificate of Title, issued by virtue of the judgment of the District Court of.....County, for the.....Judicial District of Texas, on the... day of....., 19..., in case No.....on the registration docket of said court, and by virtue of the order and decree of said court on motion to issue certificate of title made on the.....day of..... 19....." The body of said certificate shall be substantially as follows: By virtue of said final judgment in said case and that said judgment on said motion,is hereby declared to be the owner (describing his estate whether legal or equitable

or both, whether in sovereignty or tenants in common) of the following described land (describing the same as described in the judgment ordering the certificate to issue), subject only to the following encumbrances and liens (describing the same as found by the court to exist). The party to whom this certificate is issued is.....; his postoffice address is.....; (if a minor, his guardian's postoffice address is); he (or she) is married (or unmarried as the case may be); his wife (if any) (or her husband, if any) is....., whose postoffice address is..... The land described in this certificate is (or is not as the case may be) the homestead of.....(naming the husband and wife), or if only a part of the land described in the certificate is such homestead, the same shall be described.

Witness my hand and seal of office, this....day of....., 19... .., District Clerk of..... County, Texas. (The blanks and descriptions made in said certificate shall be filled in in accordance with the facts of the case.)

Sec. 30. Upon the delivery of any certificate of title as provided in this Act to the registrar he shall record the same in the registration record and upon request shall furnish each owner named therein with an owner's certificate No. 1, which shall consist of a certified copy of such certificate of title with the words written, stamped or printed above the caption: "Owner's certificate No. 1."

Sec. 31. All owner's certificates after the first shall be substantially in the following form: "Owner's Certificate No. 1. By virtue of the judgments, orders, and decrees of the District Court of.....County, for the.....Judicial District of Texas, as shown by the registration of the first certificate of title and recorded on the registration record of.....County on the.... day of.....19..., in Volume, page....., together with the notation thereon and by virtue of the deeds, transfers, mortgages and liens now on file in my office and of the notice of owner's certificate No.....(the next preceding owner's certificate),is hereby declared to be the owner of the following described land (describing

the same), subject only to the encumbrances and liens thereon noted on this certificate as follows: (giving the same). The owner of this certificate is unmarried (or is married) and the name of his wife (or the husband as the case may be) is..... The age of the owner of this certificate is.....years.

Witness my hand and official seal this.....day of....., 19....
.....County Clerk and ex officio Registrar of.....County, Texas."

Sec. 32. If any person shall acquire a lien upon the land registered under the provisions of this Act by virtue of any judgment, execution or other legal process, he shall present to the registrar a certified copy of such judgment, execution or other process and the return thereon, and the same shall be noted by the registrar upon the registration record, and no lien by virtue of any judgment or legal process shall be valid as against the title to any land registered under the provisions of this Act until such certified copy shall be presented to the registrar.

Sec. 33. After the registration of the title as herein provided, no possession thereof shall be held to be adverse to the owner of such title, as shown by the registration record. Upon any certificate of title being issued and recorded as provided in this Act, the owner or owners therein named shall be vested with a good and perfect fee simple title to the land therein described, or to such interest in the same as shall be stated in said certificate, if the same be less than the entire interest, subject only to the liens and encumbrances noted in such certificates. Likewise upon the issuance and recording of any owner's certificate, as provided in this Act, the owner or owners therein named shall be vested with a good and perfect fee simple title to the land therein described, or to such interest in the same as shall be stated in said certificate. If the same be less than the entire interest, subject only to the liens and encumbrances noted in such certificate. No suit to set aside or modify any certificate of title or owner's certificate issued under the provisions of this Act, shall ever be brought except for fraud in procuring the same, and then only by the person or persons defrauded thereby, or by their

heirs or legal representatives and against the party committing such fraud, or their assigns who have knowledge of such fraud at the time of their purchase.

Sec. 34. In the event of the death of any owner of land registered under the provisions of title, or any part thereof, or interest therein, his or their assigns may file in the county court of the county where such land is situated a motion to require the registrar of such county to cancel such owner's certificate and to issue to him, or to them, in lieu thereof, owner's certificate or certificates. Notice of such motion shall be given as is or may be required for probating wills and upon the hearing of such motion the court shall enter judgment establishing such heirs and their respective interest in said land, and shall order the registrar to issue owner's certificates in accordance with such judgment, upon filing a certified copy thereof with such registrar. Appeals shall be allowed from such judgment as is or may be allowed in judgments probating wills.

Sec. 35. In case of the loss or destruction of any owner's certificate, such owner may make affidavit in writing as to such loss before the registrar, and such registrar, if satisfied of the truth thereof, shall issue such owner a new certificate, with the proper notations thereon, as shown by the registration record, giving the same the number of such lost certificate and marking same "duplicate."

Sec. 36. Each mortgagee or lien holder of any land registered under the provisions of this Act shall be entitled, upon demand, to a copy of the owner's certificate, which shall be endorsed by the registrar "copy."

Sec. 37. The holder of any deed to any land registered under the provisions of this Act, or any part thereof or interest therein, executed by virtue of any process issued out of any court and conveying the title of the owner, as shown by the registration record, shall present the same to the registrar, who shall make notation thereof on the record of the owner's certificate and no such deed shall have any force or effect until the same is filed with the registrar.

Sec. 38. Whenever an officer shall levy a writ of attachment, execution,

order of sale or other legal process creating a lien on any land registered under the provisions of this Act, he shall forthwith file a copy of such levy with the registrar who shall make notation thereof on the registration record and no such levy shall have any force or effect until such copy thereof is filed with the registrar.

Sec. 39. When any deed executed by any sheriff, constable, marshal or trustee to any land registered under the provisions of this Act has been canceled by judgment of a court of competent jurisdiction, or when a mortgage or other lien against any such registered title is paid off or set aside by order of the court upon filing a receipt from the mortgagee or lien holder, acknowledged as is required for deeds for registration, showing such payment, or upon filing a certified copy of the order or judgment of the court, setting aside such deed or lien, the registrar shall note upon the registration record that such lien or deeds has been canceled. Upon the written transfer of a mortgage or lien upon any land registered under the provisions hereof, signed and acknowledged as is required by registration of deeds, being presented to registrar, he shall make notation of such transfer upon the registration record, and no such transfer shall be valid as against such title until the same is filed with the registrar.

Sec. 40. No deed, mortgage or other encumbrance executed by the owner of any land registered under the provisions of this title or by any other person and no copy of any instrument required by this Act to be filed with the registrar shall be recorded by such registrar or returned to the owner thereof, but the same shall be filed and kept by the registrar in a separate package, wherein shall be kept all written documents relating to each particular tract of land the title to which shall have been registered under the provisions of this Act, and the registrar shall keep with such package a card index showing what papers are contained therein.

Sec. 41. The plaintiff in all suits brought under the provisions of this Act, shall, at the time of filing his petition therein, file with the district clerk a good and sufficient cost bond, to be approved by said clerk, conditioned for the payment of all costs in-

curred in said suit, provided, that where the plaintiff is unable to give such bond he shall be permitted to prosecute such suit without bond, under the same conditions as other suits in district courts in this State are permitted to be prosecuted without such bond.

Sec. 42. If any deed shall be executed by any sheriff, constable, marshal or trustee to any land registered under the provisions of this Act, and the grantee therein shall file the same with the registrar, and the party whose title has thus been conveyed, if he be the owner of said land, as shown by registration record, shall refuse to endorse such transfer on his owner's certificate and surrender the same for cancellation, as is herein provided, where said owner shall voluntarily sell said land, the grantee in such deed may file suit in the district court to require such cancellation and delivery to him of the owner's certificate, and judgment shall be entered in accordance with the law and the facts of the case. The holder of such owner's certificate shall be cited as in other cases in said court.

Sec. 43. The district clerk, the registrar and the examiner, and all executive officers shall be liable upon their official bonds to any party injured by their acts or failure to perform their official duties as required by the provisions of this Act.

Sec. 44. Any person bringing suit under the provisions of this Act, who may desire to establish the boundaries of the land described in his petition, in addition to his allegation in reference to title, may also allege that said suit is brought to establish boundary as well as to register title, and he shall state the names of all of the original surveys adjoining the land claimed by him in such suit. The names and residence of the owners of such portions of said surveys as adjoin the tract or tracts, and the boundaries of which he seeks to establish, if known to him, and if not, that such names and residences are unknown to him; the names of all parties in the actual possession of such adjoining lands, and shall describe the true lines and corners of the land described in his petition, as he claims the same to be, in such manner as said lines and corners may be identified from such description. The alleged owners of

such adjoining tracts shall be cited as is required of defendants in other suits in the district courts of this State, to appear and show cause why such lines and corners should not be so established, and the question as to the true location of such lines and corners shall be tried as other suits to establish boundary are required to be tried under the laws of this State. The court trying such case shall enter judgment therein as in other boundary suits; provided, no such judgment shall be entered in any such suit wherein final judgment shall be rendered against the plaintiff as to the registration of title.

Sec. 45. The issue as to boundary, as provided for in the next preceding section of this Act may be tried together with the issue as to registration of title, or it may be, when so ordered by the court, be tried at a time subsequent to the trial as to the registration of title, in which event a separate judgment shall be entered as to such boundary.

Sec. 46. When final judgment shall be entered in favor of the plaintiff, in any case brought under the provisions of this Act, wherein judgment has been entered establishing boundary, except as to lots or blocks in an incorporated city or town, the district court by an order entered upon the registration minutes, shall direct the county surveyor of the county in which such land is situated to permanently establish the lines and corners thereof as defined in the judgment establishing the same. As soon as practicable after the entry of such order, said county surveyor shall run the lines of said land, marking the same if there be any trees on said lines, and erect at each of said corners as established by the judgment, a permanent monument as follows: If such corner be an original corner of a survey and not the corner of any town lot or block, a cement monument, circular in form, 10 1-2 inches in diameter at the top, sunk at least 12 inches in the ground and projecting 8 inches above the surface. An ordinary nail keg may be used as a mould for such monument; if such corner, be of a subdivision of any survey and not the corner of any town lot, or block, a cement monument 6 inches square, sunk at least 12 inches in the ground and projecting 8 inches above the surface.

Sec. 47. The county surveyor shall

be allowed reasonable compensation for running the lines and erecting the monuments provided for in the next preceding section of this Act, to be determined by the district court, and assessed as costs in the case. Such costs may be assessed in part against the owner or owners of the adjoining tracts; provided, the plaintiff shall be responsible for all such cost, if the same is not paid by the parties against whom it shall have been assessed and can not be made upon execution against them.

Sec. 48. A fee of ten dollars shall be allowed and paid to the examiner upon presenting the petition to him for examination; a fee of five dollars to be paid to the examiner upon presenting to him motion for the issuance of certificate of registration, and such additional fee as shall be allowed the examiner by the district court, not to exceed fifty dollars in any suit, including examiner's fees above mentioned; a fee of one dollar to district clerk for issuing a registration certificate; a fee of one dollar shall be allowed and paid to the registrar for recording the registration certificate to be deposited with the district clerk when the suit is filed and by him paid to the registrar upon filing the registration certificate; a fee of one dollar shall be allowed and paid to the registrar for recording each copy of such owner's certificate furnished by him under the provisions of this Act; a fee of ten cents shall be allowed and paid to the registrar for each notation made by him upon the registration record after the recording of a certificate as required of him by the provisions of this Act; a fee of ten cents shall be allowed and paid to the registrar for filing each deed, transfer, mortgage, judgment, notice of lien or other written notice required to be filed by him under this Act; for any other service of any official required to be performed under the provisions of this Act, such fees as are allowed by law for like services in other suits pending or tried in the courts of this State; such fees to be taxed under the direction of the district or county court, as the case may be.

Sec. 49. The proceedings under any petition for the registration of land and all proceedings or transactions in relation to registered land shall be proceedings in rem against the land and the decrees of the court and

registered transactions shall operate directly on the land and shall vest an established title thereto in accordance with the provisions of this Act.

Sec. 50. It shall be the duty of the commissioners court of each county in which the office of the registrar of title may be located to provide appropriate cases and other furniture for the safe and convenient keeping of all the books, documents and papers in the custody of said registrar, and also an official seal, and all necessary books and such printed blanks and stationery for using in registration in such county as may be ordered by the court.

Sec. 51. It shall be the duty of the tax collector of each county, town or city, not later than the first day in June in each year to file an exact memorandum of the delinquency, if any, of any registered land for the non-payment of the taxes or levies thereon, including the penalty therefor, in the office of the proper registrar for registration and the registrar shall note the same on the registration record. If any such officer fail to perform said duty, he and his sureties shall be liable for the payment of said taxes and levies, with the penalty and interest thereon.

Sec. 52. Upon the filing of the petition for the original registration of any land under this Act, there shall be paid to the registrar one-tenth of one per centum of the assessed value of said land as an assurance fund, which shall be subject to the trusts and conditions hereinafter declared for the uses and purposes of this Act.

Sec. 53. All excess received by the registrars under the preceding section shall be kept in a separate account and shall be paid into the State treasury upon the special trust and condition that the same shall be set aside by the auditor of public accounts, in trust as a separate fund for the uses and purposes of this Act, to be known as the land registration assurance fund, which said fund is hereby appropriated to the uses and purposes of this Act.

Sec. 54. Said moneys in so far as same may not be required to satisfy any judgment certified against the assurance fund under the provisions of this Act, shall be invested by the Treasurer of the State in Texas bonds in trust for the uses and purposes set forth in this Act, until such fund

amounts to the sum of five hundred thousand dollars, but the income, or so much thereof as may be required therefor, may be applied to the payment of expenses of the administration of this Act and the satisfaction of such judgment. Whenever and so long as the face value of the bonds purchased as aforesaid equal said sum of five hundred thousand dollars, other moneys thereafter coming into said fund, together with any income not required for the purposes aforesaid, shall be transferred from the land registration assurance fund to the general treasury.

Sec. 55. Any person who has any actual notice of any registration under this Act, by which he may be deprived of any estate or interest in land and who is without remedy hereunder, may, within two years next after the time in which the right to bring such action shall have first accrued to him or to some person through whom he claims, bring action against the Treasurer of the State in the district court of the county in which the land lies for the recovery out of the assurance fund of any damages to which he may be entitled by reason of said deprivation. The assurance funds shall be defended in such actions by the county attorney of the county in which the land lies, and in any appeal, by the Attorney General for the State. The measure of damages in such action shall be the value of the property at the time the right to bring such action first accrued, and judgment rendered therefor shall be paid as hereinafter provided. If any person entitled to bring such action be under the disability of infancy, insanity, imprisonment or absent from the State in the service of the State or of the United States at the time the right to bring such action has accrued, the same may be brought by him or his privies within two years after the removal of such disability.

Sec. 56. If such action be brought to recover for loss or damage arising only through the legal operation of this Act, then the Treasurer of the State shall be the sole defendant, but if such action be brought to recover for loss or damage arising on account of any registration made or procured through fraud or wrongful act of any person not exercising a judicial fund, then both the Treasurer of the State

and such person shall be made parties defendant.

Sec. 57. If judgment be rendered for the plaintiff in any action, execution shall issue against the defendant, if any, other than the Treasurer of the State, and if such execution be returned unsatisfied in whole or in part, or if there be no such defendants, then the clerk of the court in which the judgment is rendered shall certify to the auditor of public accounts the amount due on account thereof, and the same shall then be paid by the State Treasurer out of the assurance fund on warrant from said auditor into a special appropriation hereby made of said fund for that purpose. Any person other than the Treasurer of the State against whom any such judgment may have been rendered, shall remain liable therefor, or for so much thereof as may be paid out of the assurance fund, and said Treasurer may bring suit at any time to enforce the lien of such judgment against said person or his estate for the recovery of any amount, with interest paid out of the assurance fund as aforesaid.

Sec. 58. In the event any person shall register his land under this Act, he shall pledge his certificate for a loan, or as security, with any person, firm or corporation, and should there be default in the condition of such pledge, unless otherwise provided by such contract, the said land shall be sold in the county where the same or the greater part thereof is located and shall be sold only after advertising the time, place and terms of sale for the time and in the manner required by law for sales under deeds of trust.

Sec. 59. Registration shall not be compulsory on the owner of any land lying within this State.

Sec. 60. All laws or parts of laws in conflict herewith are hereby repealed.

Sec. 61. The fact that no adequate law exists in this State for the registration of land titles, on account of which land titles are rendered uncertain and litigation is encouraged, together with great inconvenience, the crowded condition of the calendar and the near approach of the end of the present session of the Legislature, creates an emergency and requires that

the constitutional rule requiring bills to be read on three several days in each house shall be suspended, and the same is hereby suspended and this Act shall take effect from and after its passage.

THIRTIETH DAY.

Senate Chamber,
Austin, Texas,
Friday, February 16, 1917.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor W. P. Hobby.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hudspeth.
Bailey.	Johnson of Hall.
Bee.	Johnston of Harris.
Buchanan of Bell.	King.
Buchanan of Scurry.	Lattimore.
Caldwell.	McCollum.
Clark.	McNealus.
Dayton.	Page.
Dean.	Farr.
Floyd.	Robbins.
Gibson.	Smith.
Hall.	Strickland.
Harley.	Sulter.
Henderson.	Westbrook.
Hopkins.	Woodward.

Absent—Excused.

Decherd.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Westbrook.

Excused.

Senator Decherd for today and indefinitely, on account of sickness, on motion of Senator McNealus.

Petitions and Memorials.

See Appendix.

Committee Reports.

See Appendix.